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this much mooted question. There is, however, a distinguishing feature in the facts of the principal case, for Iowa has a statute authorizing the city council to designate the kind of material to be used. Probably the decision would have been the same without that provision, as the court approves the opinion of JUDGE COOLEY in *Hobart v. Detroit*, 17 Mich. 245, 97 Am. Dec. 185. See 4 MICH. LAW REV. 78, and 5 id. 484, wherein the cases on the subject are classified.

NAVIGABLE WATERS—RIPARIAN RIGHTS—WHARFING OUT.—Plaintiffs owned lands under navigable water, tracing title from a royal grant. Defendants, owning the upland bounded by high-water mark, built a pier which extended over the water and was supported by piles driven into plaintiffs' land. It was conceded that the pier in itself was unobjectionable. Held, the owner of upland has the right to build a pier to gain access to adjacent navigable water, although it extends over lands under water, the fee to which is in a town. *Trustees, etc., of Town of Brookhaven et al. v. Smith et al.* (1907), — N. Y. —, 80 N. E. Rep. 665.

Three justices joined in a dissenting opinion in the above case, which revives the interesting discussion concerning the rights of an owner of upland bordering on navigable waters in the United States. Under the English common-law as adopted in the several states, a riparian owner on navigable water had a mere right of access. A dock or pier built over the water would, if it obstructed the public right of navigation, constitute a nuisance; and even if it were unobjectionable in itself, it was an invasion of the sovereign's private right and liable to seizure as a purpresture. GOULD, WATERS, § 167; *Shively v. Bowlby*, 152 U. S. 1. This doctrine controls in this country except in those states in which it has been modified by legislation or common usage. *Shively v. Bowlby*, 152 U. S. 1; *Weber v. Harbor Commissioners*, 18 Wall. 57. In New York, many of the cases are directly opposed to each other. That a riparian owner has not such a right to wharf out, that compensation is due him if communication between his upland and the water is destroyed, see *Gould v. Hudson River R. R. Co.*, 6 N. Y. 522; *Lansing v. Smith*, 8 Cow. (N. Y.) 146; *People v. Vanderbilt*, 26 N. Y. 287; *contra*, *Hedges v. West Shore R. R. Co.*, 80 Hun. (N. Y.) 310; *Rumsey v. N. Y. & N. E. R. R. Co.*, 133 N. Y. 79; *Matter of City of New York*, 168 N. Y. 134. In view of the great diversity of these decisions and others based upon them, it would be difficult to say that a usage had been established in New York, strong enough to controvert the common-law. The law regarding riparian rights in land bordering on tide waters applies equally to lands on the Great Lakes. *Cobb v. Commissioners of Lincoln Park*, 202 Ill. 427. The United States Supreme Court and the courts of Minnesota and Wisconsin have clearly recognized the right to wharf into navigable water. *Yates v. Milwaukee*, 10 Wall. 497; *Illinois Central R. R. Co. v. Illinois*, 146 U. S. 387; *Carli v. Stillwater St. R. R. & Transfer Co.*, 28 Minn. 373; *Lawson v. Furlong*, 50 Wis. 681. But if the right is destroyed in the exercise of the power of Congress to control navigation, no compensation need be made. *Scranton v. Wheeler*, 179 U. S. 141, and cases there

cited. The Illinois courts have vigorously maintained, with the common-law, that any encroachment by the upland owner on the soil under water, was a purpresture whether a nuisance or not. *Revell v. People*, 177 Ill. 468; *Cobb v. Commissioners of Lincoln Park*, *supra*. The Michigan doctrine holds that the right of access is subject to be defeated by the paramount power of Congress, without compensation. *Scranton v. Wheeler*, 113 Mich. 565. The same theory was set forth in Ohio in *Hogg v. Beerman*, 41 Ohio St. 81; but in a later case, the Circuit Court held that a riparian right is property and that, when once vested, the owner can be deprived of it only on due compensation, even if it is taken in furtherance of the public good. *Deming v. City of Cleveland*, 22 Ohio Cir. Ct. R. 1.

NEGLIGENCE—SENDING SICK PERSON AWAY FROM PREMISES INTO DANGER.—Plaintiff, a cattle buyer, after looking at defendant's cattle, was invited to take supper with the family. After supper he became violently ill and fell to the floor in a fainting condition. Defendant placed him in his cutter and started him towards his home seven miles away, it being night and the weather being cold. He was found the next morning about a mile from defendant's house, nearly frozen to death, and from this exposure he suffered great injury. *Held*, that since he was on the premises by invitation and was not a trespasser, the defendant owed him the duty, on discovering his condition, to exercise reasonable care not to expose him to danger by sending him away; that the question as to whether the defendant knew of his condition should have been left to the jury and if they so found, the defendant was liable for the injuries resulting from the exposure. *Depue v. Flateau et al.* (1907), — Minn. —, 111 N. W. Rep. 1.

There is some conflict among the authorities as to the duty owed to a trespasser after he has received an injury and is needing assistance. In *Union Pacific Railway Company v. Coppier*, 66 Kan. 649, that court held that where a trespasser was struck by a moving car and injured without fault of the company, it then owed no legal duty to give any care or attention to the wounded man, no matter what ordinary humanity or morality would dictate. But in *Northern Central Railway v. The State, Use of Price et al.*, 29 Maryland, 420, it was held that the company did owe such a duty, though it would seem that the weight of authority would deny such a view unless the company had been guilty of some negligence in causing the injury, 69 L. R. A. 513. It has been held that railroad companies must use due care in the treatment of sick, insane, infant or drunken passengers. *Weber v. Railroad Co.*, 33 Kan. 554; *Connolly v. Railroad Co.*, 41 La. Ann. 61; *Indianapolis, Peru & Chicago Ry. Co. v. Pitzer*, 109 Ind. 179. It has also been held that this duty also extends to trespassers who are under disabilities. The Supreme Court of Iowa in *Brown v. The C. R. I. & P. Railroad Co.*, 51 Iowa 235, a case in which the plaintiff refused to pay any fare on the train, said: "The rules of law as well as the dictates of humanity require that the ejection shall occur at such place and be conducted in such manner as not unreasonably to expose the party to danger." Supporting this doctrine in the case of trespassers on trains, *Louisville, Cin. & Lexington R. R. Co.*